

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

DESMOND SCAIFE, JR.,

Plaintiff,

v.

BERKLEE COLLEGE OF MUSIC, INC.;  
ROGER BROWN, in his official capacity  
as President of Berklee College of Music,  
Inc.; CHRISTOPHER KANDUS-FISHER,  
individually and as former Chief Equity  
Officer; JENNIFER BURKE, individually  
and as Director of Employee Relations; and  
VIDRA HARRIS, individually and as  
Senior Human Resources Business Partner,

Defendants.

Civil Action No.

[On removal from Suffolk County  
Superior Court, Civil Action No.  
2084cv00554-B]

**NOTICE OF REMOVAL**

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT  
OF MASSACHUSETTS:**

Pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446, Defendants Berklee College of Music, Inc. (“Berklee” or the “College”), Roger Brown (“Brown”), Christopher Kandus-Fisher (“Kandus-Fisher”), Jennifer Burke (“Burke”), and Vidra Harris (“Harris”) (collectively “Defendants”) hereby give notice of the removal of the civil action entitled *Desmond Scaife, Jr. v. Berklee College of Music, Inc. et al.*, Civil Action No. 2084-CV-00554-B, from the Superior Court of Suffolk County, Massachusetts (the “State Court Action”), to the United States District Court for the District of Massachusetts. In support of this Notice of Removal, and pursuant to 28 U.S.C. §1446(a), Defendants attach as Exhibit 1 hereto a copy of all process and pleadings served on Defendants in the State Court Action, and state as follows:

**I. TIMELINESS OF REMOVAL**

1. Plaintiff Desmond Scaife, Jr. (“Plaintiff”) filed his Amended Complaint and Jury Demand (the “Amended Complaint”) on or about August 20, 2020. Defendants accepted service of the Amended Complaint on August 24, 2020. This Notice of Removal is, therefore, being timely filed within thirty days of notice of the State Court Action as required under 28 U.S.C. § 1446(b).

**II. JURISDICTION AND GROUNDS FOR REMOVAL**

2. In Paragraphs 86–92 (Count III) of the Amended Complaint, Plaintiff alleges that Berklee, Kandus-Fisher, and Burke violated federal law, specifically 42 U.S.C. § 1981.

3. Defendants are entitled to remove the State Court Action to this Court, pursuant to 28 U.S.C. § 1446, because this Court has original jurisdiction over this matter under the provisions of 28 U.S.C. §1331 (establishing federal question jurisdiction).

**III. REMOVAL TO THIS COURT IS PROPER**

4. Because this case was initially filed in the Superior Court of Suffolk County, the Eastern Division of the United States for the District of Massachusetts is the proper Court to which removal should be effected, as required for removal under 28 U.S.C. §§ 1441(a) and 1446(a).

**IV. NOTICE**

5. Copies of this Notice of Removal are being served upon Plaintiff and filed with the Clerk of Court of the Suffolk County Superior Court, Commonwealth of Massachusetts, in satisfaction of 28 U.S.C. § 1446(d).

**V. NON-WAIVER OF DEFENSES**

6. Defendants reserve the right to raise all defenses and objections to the Amended Complaint and allegations set forth therein after the State Court Action is removed to this Court.

WHEREFORE, Defendants Berklee College of Music, Inc., Roger Brown, Christopher

Kandus-Fisher, Jennifer Burke, and Vidra Harris respectfully request that this action, now pending in the Suffolk County Superior Court, Commonwealth of Massachusetts, be removed to the United States District Court for the District of Massachusetts, Eastern Division.

Respectfully submitted,

**BERKLEE COLLEGE OF MUSIC, INC.,  
ROGER BROWN, CHRISTOPHER KANDUS-  
FISHER, JENNIFER BURKE, AND VIDRA  
HARRIS**

By their attorneys,

/s/ Arielle B. Kristan

Laurie R. Bishop (BBO# 672535)

*lbishop@hrwlawyers.com*

Arielle B. Kristan (BBO# 677048)

*akristan@hrwlawyers.com*

Alexandra A. Mitropoulos (BBO# 693753)

*amitropoulos@hrwlawyers.com*

Hirsch Roberts Weinstein LLP

24 Federal Street, 12<sup>th</sup> Floor

Boston, MA 02110

Phone: (617) 348-4300

Fax: (617) 348-4343

Dated: September 14, 2020

**CERTIFICATE OF SERVICE**

I, Arielle B. Kristan, hereby certify that a true and accurate copy of the above document was served by first class mail and email upon counsel for Plaintiff on September 14, 2020.

/s/ Arielle B. Kristan

Arielle B. Kristan